

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

TA-1117-2018 (O&M)

Date of decision: 23.07.2019

Asha

...Applicant

Versus

Rakesh Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Narender Kaajla, Advocate for the applicant.

Mr. Rajesh Hooda, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

Applicant Asha, aged about 28 years, estranged wife of respondent Rakesh Kumar, presently residing at Hisar, on account of matrimonial discord between the spouses, by way of filing the present application, seeks transfer of petition under Section 9 of the Hindu Marriage Act, filed by her husband, the respondent against her having title 'Rakesh Kumar Vs. Asha' pending in the Court of Addl. Principal Judge, Family Court, Rohtak to the Court of competent jurisdiction at Hisar.

According to the applicant, the marriage between the parties was solemnized on 25.01.2011. Thereafter, they started residing together. The marriage was consummated and the couple was blessed with two children i.e. a daughter, namely Baby Anshu, born on 03.07.2013 and a son, namely Master Dhruv born on 14.08.2015.

Unfortunately, differences arose between the spouses. Resultantly, the applicant along with children started residing separately from her husband. She is serving in Haryana Police as a Constable and is putting up in her official accommodation at Hisar. She has filed a petition under Section 125 Cr.P.C., besides another petition under provision of Protection of Women from Domestic Violence Act, 2005 against the respondent in Courts at Hisar. She has also lodged an FIR No.08 dated 10.02.2018, under Sections 323, 406, 498-A, 506 and 34 IPC at Police Station Hisar against the respondent and his family members. The respondent has filed the petition in question against the applicant just to harass her. Under the circumstances, it is difficult for the applicant to travel from Hisar to Rohtak to attend the dates of hearing in the Court there, covering a distance of about 96 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent who put in appearance through counsel and filed written reply, vehemently opposing the application, praying for its dismissal.

I have heard learned counsel for the parties besides going through the record.

The Apex Court in various judgments has observed that in matrimonial disputes between the spouses convenience of wife should be looked into. In that regard a reference can be made to authority **Sumita Singh Versus Kumar Sanjay and another**, 2002 AIR(SC) 396

by a Division Bench of Hon'ble Supreme Court.

In **Bhartiben Ravibhai Rav** Versus **Ravibhai Govindbhai Rav**, 2017(3) RCR(Civil) 369, the Apex Court had allowed application for transfer of the divorce petition to a place where the wife was residing considering various factors including the distance between the place where the wife was residing and the place of sitting of the Court where divorce petition had been instituted and the fact that the wife had filed two cases against her husband in the Court at the place of her residence wherein the respondent had already put in appearance.

In **Apurva** Versus **Navtej Singh**, 2017(2) Law Herald 966 by a Co-ordinate Bench of this Court, it was observed that wherever the Courts are called upon to consider the plea of transfer in matrimonial disputes, the Courts have to take into consideration various factors like economic soundness of either of the parties, the social strata of the spouses to which they belong and behavioural pattern, standard of life antecedents of marriage. Generally it is the wife's convenience, which must be looked at by the Courts while deciding the transfer application.

Keeping in view the contentions in the application and submissions made by learned counsel for the applicant, in which I find merit, in absence of any strong circumstance to the contrary, it would be proper and appropriate, if the application is accepted. The same is accordingly allowed. The petition in question is ordered to be

withdrawn from the Court of Addl. Principal Judge, Family Court, Rohtak and transferred to Family Court at Hisar for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 26.08.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

23.07.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No